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very interesting questions arising from the establishment of a Protectorate over a country in which this jurisdiction has been in force, the advancement of a State in civilization, military occupation, the acknowledgment of independence of a portion of an heretofore oriental State, are thoroughly discussed and numerous historical instances set forth.

A valuable and thorough appendix containing important decisions, acts of Congress, treaties and reports and a carefully arranged index, is added to the work. The author has displayed the greatest care in the collection of his foot notes, and his marginal phrases are of considerable aid to the reader.

The work has filled a long felt want in the field of Consular jurisdiction, and will no doubt be of constant help to our officials in those countries where the theory of extraterritoriality still remains in operation.

The author has been deservedly rewarded for his efforts by being appointed the clerk of the United States Court in China.

ACT OF STATE IN ENGLISH LAW. By W. HARRISON MOORE. New York: E. P. Dutton & Co. 1906. pp. xi, 178.

This short but comprehensive work is composed of seventeen chapters treating by the case-study method the most important phases of public law from the standpoint of the sovereign power. The earlier portion deals with the status of Acts of State under the absolute monarchy; the greater part treats of the same problem under the constitutional monarchy and the republic. So far have the theories changed that the former part has chiefly a historic value; the latter is of course of more immediate interest.

Of particular interest in the seventeenth century discussion is that portion bearing upon the spheres of power as to-day recognized, the legislative, executive and judicial. It was laid down in *Darnel's Case*, 3 State Trials 36-37, that the King's acts, writs, commissions, etc., were not exempt from examination by the courts; and the executive was not to interfere with the prerogative of the courts. The King's absolute power was long held to be above the common law and constituted the *lex terrae*. "Matter of State" was early defined by Bacon as "whatsoever concerneth any great portion of the people"; what the King and council deemed *pro saluti populi*. James I held that the Matter of State as it concerned the mystery of absolute power could not be examined into; this belongs "to them that sit in the throne of God" (p. 18). The case of *Godden v. Haler* (1686) Shower 475, holds that in respect of the laws of government if not of property the King is absolute, and part of the constitution is above the power of Parliament. Of course in the Revolution of 1689 Parliament became supreme. If the absolute prerogative is considered as a part of the "law of the land," then certainly it cannot be said to be above this law. What modification the "necessities of war" made in the situation is discussed.

Under the caption "Facts of State" the author has interesting things to say on the status of ceded territory, the power of the King in relation to the national domain, and kindred topics. In England the Crown can annex and cede territory by proclamation and with no limitations by any department, and by implication bind the courts by any situation it may thus, by an Act of State, create. The Court, on the other hand, legally established in

Janson v. Drcifontein Gold Mines Co. [1900] 2 Q. B. 339, when the fact of war existed as between England and the Transvaal on evidence presented by Bluebooks and Reports.

Chapter V has material of peculiar interest to American students, as it bears closely upon the power of the states as non-suable bodies. The Crown may allow suit through its agents; the Eleventh Amendment of the Constitution of the United States protects states from suit except upon their permission. In Chapter VII will be found valuable material on Colonial government. The first case in English law was *Witham v. Dutton* (1688) 3 Mod. 160. The necessity was long recognized of keeping the sovereignty in the Home Government. Mansfield held that an action either civil or criminal could not lie against a governor. Great cases have of course arisen over the power and liability of governors, viceroys, lord lieutenants, etc., for an instance of which see the case of Warren Hastings. Refined distinctions are drawn between acts of power which are justiciable and Acts of State which are not. In the case of *Musgrove v. Pulido* (1879) 5 App. Cas. 102, it was held that the governor of Jamaica could be called to answer before the Court; but when the Court held an act to be an Act of State he was not liable.

In contrast to the lodgment of the treaty-making power in the President and Senate in this country, the Crown possesses this power exclusively in England. Of more interest is the discussion of the binding nature of treaties. In England violations of treaties by subjects have been held to be criminal, and commercial agreements violating commercial treaties have been held invalid. An interesting discussion handles the rights of citizens of ceded lands under treaty-grants.

The whole question of the sanction of international law is raised in the chapter on the relations of external states. The general statement is made in the case of *Secretary of State for India v. Kamachee Boye Sahaba* (1859) 13 Moo. P. C. 22, that "all transactions between independent states are governed by other laws than municipal Courts administer." The author does not seem to be as clear on the powers of the Supreme Court in relation to disputes between states of the American Union. While there are cases where the courts might refuse to treat certain matters for political reasons, yet the direct grant of power by the Constitution is to the Supreme Court. *Missouri v. Iowa* (1849) 7 How. U. S. Rep. 660, is one of the interesting decisions on the exercise of this power by the Supreme Court. In this case the two states involved agreed to carry the case to the Supreme Court, the only body qualified in the United States to decide such a conflict.

In connection with the discussion of the nature of acts of belligerent states in time of rebellion it should be remembered that while the persons taken by Northern troops in our Great Rebellion were treated as prisoners of war, yet the executive held that all who had taken part with the Confederacy had been treasonable; Lincoln holding to the doctrine of individual and not state responsibility.¹

The work here briefly reviewed has much in it for the student of international and municipal law. Abundant cases are cited and the fields, touched on in an illuminating manner, offer inducement for further research. This is probably the greatest service of such books to the specialist and the serious

¹ Dunning: *Essays on the Civil War and Reconstruction*. 1898. p. 102.

student. Opening up many questions of practical and historical interest from an English viewpoint the work should meet with a cordial reception on this side of the water.

REVIEWS TO FOLLOW:

THE PHILOSOPHY OF PROOF. (In its Relation to the English Law of Judicial Evidence.) By J. R. GULSON. London: E. P. Dutton & Co. 1907. pp. xv, 496.

MARKETABLE TITLE TO REAL ESTATE, BEING ALSO A TREATISE ON THE RIGHTS AND REMEDIES OF VENDORS AND PURCHASERS OF DEFECTIVE TITLES (AS BETWEEN THEMSELVES). Second Edition. By CHAPMAN W. MAUPIN. New York: Baker, Voorhis & Co. 1907. pp. lxxvi, 910.

LAW: ITS ORIGIN, GROWTH AND FUNCTION, Being a Course of Lectures Prepared for Delivery before the Law School of Harvard University. By JAMES COOLIDGE CARTER. New York and London: G. P. Putnam's Sons. 1907. pp. vii, 355.

THE SEIGNIORIAL SYSTEM IN CANADA. By WILLIAM BENNETT MUNRO. New York: Longmans, Green & Co. 1907. pp. xiii, 296.

HANDBOOK OF THE LAW OF SURETYSHIP AND GUARANTY. By FRANK HALL CHILDS. St. Paul, Minn.: West Publishing Co. 1907. pp. x, 572.

HANDBOOK OF THE LAW OF EVIDENCE. Second Edition. By JOHN JAY MCKELVEY. St. Paul, Minn.: West Publishing Co. 1907. pp. xvii, 540.

A TREATISE ON THE LAW OF NATURALIZATION OF THE UNITED STATES. By FREDERICK VAN DYNE. Washington: Frederick Van Dyne. 1907. pp. xviii, 527. The Lawyers' Co-operative Publishing Co., Selling Agents. Rochester, N. Y.

ALGER & SLATER ON THE NEW YORK EMPLOYERS' LIABILITY ACT. Second Edition. Albany, N. Y.: Matthew Bender & Co. 1907. pp. xlvii, 291.

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A TRUSTEE'S HANDBOOK. By AUGUSTUS PEABODY LORING. Third Edition. Boston: Little, Brown & Co. 1907. pp. xxxvi, 224.

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"SHORT SALES" OF SECURITIES THROUGH A STOCKBROKER. By ELIOT NORTON. New York: The John McBride Co. 1907. pp. 71.

LEGAL ESSAYS. By JAMES BRADLEY THAYER, LL.D. Boston: The Boston Book Co. 1908. pp. xvi, 402.

WILLS AND THE ADMINISTRATION OF THE ESTATES OF DECEASED PERSONS. By WILLIAM PATTERSON BORLAND. Kansas City, Mo.: Vernon Law Book Co. 1907. pp. xvi, 311.

THE AMERICAN CONSTITUTION. By FREDERICK JESUP STIMSON. New York: Charles Scribner's Sons. 1908. pp. 259.